

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

THOMAS MOWREY,

Plaintiff,

v.

No. 2:19-cv-00307-KRS

ADOBE DELI LLC,
VAN H. JACOBSEN, and
VICTORIA L. JACOBSEN,

Defendants.

**ORDER FOR SERVICE, DENYING SECOND MOTION TO PROCEED IN FORMA
PAUPERIS AND MOTION FOR DEFAULT JUDGMENT, AND GRANTING
PERMISSION TO FILE ELECTRONICALLY**

THIS MATTER comes before the Court on Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 10, filed September 5, 2019 ("Application"), Plaintiff's Motion for Default Judgment, Doc. 9, filed June 18, 2019, and Plaintiff's Request of Usage, [sic] Doc. 8, filed May 2, 2019.

Application to Proceed In Forma Pauperis

Plaintiff has filed two Applications to proceed *in forma pauperis* in this case. The second Application is unsigned and presents financial information which is essentially the same as in the first Application. *See* Doc. 6, filed April 12, 2019.

The Court denies the second Application as moot because the Court has granted Plaintiff's first Application to proceed *in forma pauperis*. *See* Doc. 7, filed May 1, 2019. The Court reminds Plaintiff that he must sign every document he files in this case. *See* Fed. R. Civ. P. 11(a) ("Every pleading, written motion, and other paper must be signed . . . by a party personally if the party is unrepresented").

Service on Defendants

Plaintiff is proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915 which provides that the “officers of the court shall issue and serve all process, and perform all duties in [proceedings *in forma pauperis*]”). 28 U.S.C. § 1915(d).

The Court ordered the Clerk of the Court to notify Defendants, at the addresses provided by Plaintiff in his Complaint, that an action has been commenced and request that Defendants waive service pursuant to Fed. R. Civ. P. 4(d). *See* Doc. 7 at 3. The Clerk mailed the Notice, Request to Waive Service, and copies of the Complaint to Defendants on May 2, 2019. Because none of the Defendants have returned the waiver within the 45-day period ordered by the Court, the Court orders the Clerk to direct the United States Marshal to serve a copy of the summons and Complaint on Defendants.

Motion for Default Judgment

The Court denies Plaintiff's Motion for Default Judgment as premature because Defendants have not been served.

Motion for Usage

Plaintiff "[r]equest usage of the CM/ECF system for case log as Pro Se." Doc. 8. The Court grants Plaintiff permission to file electronically. Plaintiff shall familiarize himself with the procedures in the CM/ECF Administrative Procedures Manual. Failure to comply with those procedures may result in revocation of permission to file electronically.

IT IS ORDERED that:

- (i) Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 10, filed September 5, 2019, is **DENIED as moot**.

- (ii) Plaintiff's Motion for Default Judgment, Doc. 9, filed June 18, 2019, is **DENIED as premature.**
- (iii) Plaintiff's Request of Usage, Doc. 8, filed May 2, 2019, is **GRANTED.** The Clerk shall mail a copy of the CM/ECF Administrative Procedures Manual to Plaintiff.
- (iv) The Clerk of the Court shall direct the United States Marshal to serve Defendants with a summons and a copy of the Complaint at the following addresses:¹

Adobe Deli LLC
2970 Lewis Flats Road
Deming, New Mexico 88031

Van H. Jacobsen
3970 Lewis Flats Road
Deming, New Mexico 88031

Victoria L. Jacobsen
3970 Lewis Flats Road
Deming, New Mexico 88031


UNITED STATES MAGISTRATE JUDGE

¹ Plaintiff provided the addresses with the two street locations, 2970 and 3970. *See* Complaint at 2, 4, Doc. 1, filed April 3, 2019.